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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,621	01/10/2002	Ugo Siepel	294-109 PCT/US	7146
7590	08/03/2007		EXAMINER	
Ronald J Baron Hoffmann & Baron 6900 Jericho Turnpike Syosset, NY 11791			TRAN LIEN, THUY	
			ART UNIT	PAPER NUMBER
			1761	
			MAIL DATE	DELIVERY MODE
			08/03/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/936,621	SIEPEL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Lien T. Tran	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 04 May 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-3, 9-11 and 13-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3, 9-11, 13-19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

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The 112 rejection is hereby withdrawn because applicant's argument is found to be persuasive.

Claims 1-3, 9-11 and 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Hulle et al in view of Jeffcoat et al., the article by Dr. Pieter Buwalda "Sheer Versatility) and applicant's admission of prior art.

Van Hulle et al disclose methods for preparing puffed snack products. The products are formed from gelatinized doughs whose total amylopectin starch content ranges between about 30-95%. The method comprises the steps of mixing amylopectin starch together with other ingredients to form a dough, cooking the dough in an extruder to gelatinize the dough, shaping the dough into pieces, drying the pieces and puffing the pieces. (see col. 5 lines 1-13 and col. 7)

Van Hulle et al do not disclose the amylopectin starch is non-cereal amylopectin starch obtained from potato, heating the composition to a temperature above the glass transition temperature to expand the composition comprising the amylopectin starch and cooling to below the glass transition temperature.

Jeffcoat et al disclose a stabilized, crosslinked waxy potato starch.

The article by Dr. Buwalda discloses a new amylopectin potato starch that is used in snack product and gives noticeably good expansion properties.

Genetic modification of potato to give starch containing only amylopectin is known in the art shown by applicant on pages 5-6 in reference to the articles.

It would have been obvious to one skilled in the art to use other known source of high amylopectin-containing starch to make the amylopectin dough disclosed by Van

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Hulle et al. Waxy potato starch is known in the art as shown by Jeffcoat, Dr. Buwalda and applicant's admission of prior art. It would have been obvious to one skilled in the art to use waxy potato starch when one wants the flavor of potato and still meeting the amylopectin content requirement. As to the heating to above glass transition temperature, the dough in the Van Hulle et al process is heated to gelatinize the dough; thus, it is obvious the dough is heated to above the glass transition temperature. As to the expanding, the dough is heated just as claimed; thus, it is obvious the composition is expanded. The dough is dried at lower temperature; thus, it is obvious the dough is cooled to below the glass transition temperature. The dough pieces are puffed which will cause more expansion and the product is a snack that has a glazed, sugar coating. Since the dough is heated and expanded, the product is a heat expanded foodstuff. With respect to claims 16-17, the claims do not define over the teaching of Van Hulle et al. In absence of a clear indication in the specification or claims of what the basic and novel characteristics actually are; consisting essentially of is construed as equivalent to "comprising". As to the expansion percent, the specification discloses the expansion is due to the use of non-cereal amylopectin starch; thus, it is obvious the prior art product will have such expanding characteristic when non-cereal starch is used in place of the cereal starch disclosed by Van Hulle et al.

All arguments have been previously addressed and will not be repeated in this office action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hendricks Keith can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

August 1, 2007

*Lien Tran*  
LIEN TRAN  
PRIMARY EXAMINER  
Group 1700